Office Supreme Court U. S.
FILED
DEC 10 1898
JAMES H. McKENNEY,
Clerk

No. 120.

Brf. of Garland & Garland for D.

Filed Dec. 10, 1898.

In the Supreme Court of the United States.

October Term, 1898.

THE ST. LOUIS, IRON MOUNTAIN AND SOUTHERN RAILWAY COMPANY, Plaintiff in Error,

vs.

CHARLES PAUL.

No. 120.

IN ERROR TO THE SUPREME COURT OF ARKANSAS.

BRIEF FOR DEFENDANT IN ERROR.

A. H. GARLAND,
R. C. GARLAND,
For Defendant.

McGILL & WALLACE, LAW PRINTERS, Washington, D. C.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1898.

THE ST. LOUIS, IRON MOUNTAIN AND SOUTHERN RAILWAY COMPANY, *Plaintiff in Error,*

vs.

CHARLES PAUL.

No. 120.

In Error to the Supreme Court of Arkansas.

Brief for Defendant in Error.

Paul sued the plaintiff in error in the Circuit Court of Saline County, Arkansas, for $21.80, due him as a laborer for plaintiff, and a penalty thereon of $1.25 per day for failure to pay him what was due when he was discharged. (Rec., 3.)

The plaintiff in error appeared and demurred to the complaint, and most violently assaulted the act of the Arkansas legislature, under which this claim was asserted, for unconstitutionality, being repugnant to articles V and XIV of the amendments to the Constitution of the United States, and quite obnoxious to numberless sections of the Constitution of Arkansas, and generally flagrant, oppressive, and intolerable. (Rec., 3, 4.)

The Circuit Court overruled the demurrer and the company answered; and all that is material here to be noticed is, such answer flung at the court again its terrible arraignment of the act of the legislature, and a demurrer by Paul to that part of the answer was sustained. (Rec., 6.)

The case then went to trial before the court, the parties waiving a jury, and the court found for Paul in the sum of $70.55 (Rec., 6, 7), and on appeal by the company to the Supreme Court of Arkansas the judgment was affirmed (Rec., 6, 7, 29), and the company brings the case here by writ of error for review.

The section of the act of March 25, 1889, entitled "An act to provide for the protection of servants and employees of railroads," against which plaintiff in error was so bitter, is as follows:

> "Whenever any corporation, engaged in the business of operating or constructing any railroad or railroad bridge, shall discharge with or without cause, or refuse to further employ, any servant or employee thereof, the unpaid wages of each servant or employee then earned at the contract rate, without abatement or deduction, shall be and become due and payable on the day of such discharge or refusal to longer employ, and if the same be not paid on such day, then, as a penalty for such nonpayment, the wages of such servant or employee shall continue at the same rate until paid: *Provided*, such wages shall not continue more than sixty days, unless an action therefor shall be commenced within that time."

All questions in the case are eliminated therefrom in this court, except the one as to what, if any, affront this

section gives to the Vth and XIVth amendments of the Constitution of the United States. The others sought to be raised are matters for the Supreme Court of Arkansas, and its judgment upon them is not reviewable here.

Upon the point or points presented, it is respectfully submitted, no argument can be needed; but if the court should think otherwise, we refer it to the opinion of Judge Battle, of the Supreme Court of the State, which is the opinion of that court, as clear, cogent, and conclusive. (Rec., 10–18.) And upon that we submit the case without brief.

But there is one thing we wish to call the attention of the court to, and insist upon:

If this is not a *delay* case, in every respect, gazing at it from any direction, then we are without hope of seeing one. This act has stood the test so long, and others in different States similar to it as well, there can be no motive for the writ of error here but delay, and we ask damages under the statute and the rule of this court, and move the court to impose them.

Rule 23;
Rev. Stats., section 1010;
T. & P. Ry. Co. *v.* Volk, 151 U. S., 73.

Respectfully.

A. H. GARLAND,
R. C. GARLAND,
For Defendant.